

In the Court of Appeals of the State of Alaska

Charles Bunaqbethaq Henry,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-12657**

Order

Date of Order: **December 29, 2020**

Trial Court Case No. **4FA-14-03397CR**

The Appellant, Charles B. Henry, filed a felony sentence appeal in this Court. In *Henry v. State*, Alaska App. Memorandum Opinion No. 6907 (November 18, 2020), this Court affirmed Henry’s sentence.

Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to “enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant’s conviction was reversed by the appellate court.” Because Henry was represented by court-appointed counsel in this appeal and his conviction was not reversed, the Appellate Court Clerk’s Office intends to enter judgment against him in the amount of \$500 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6).

Henry now seeks judicial review of the Clerk’s decision. *See* Alaska Appellate Rule 503(h)(2)(A). In his request for review of the Clerk’s intention to enter judgment for the cost of appellate counsel, Henry essentially contends that he is indigent and that his appellate attorney provided ineffective assistance of counsel. But neither Henry’s claim of indigence nor his claim that his appellate attorney was ineffective are insufficient to relieve Henry from the scope of Appellate Rule 209(b). To the extent that

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Henry believes that his appellate attorney was incompetent, he may seek relief by filing and litigating an application for post-conviction relief in the superior court.

In sum, because Henry was represented by court-appointed counsel in this appeal and his conviction was not reversed, the decision of the Appellate Court Clerk to enter a \$500 judgment for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED**.

Entered at the direction of Chief Judge Allard.

Clerk of the Appellate Courts



Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Charles Henry at Goose Creek Correctional Center

Distribution:

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